



Billing Code: 4510.43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations, and Variances on or before [Insert date 30 days from the date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit your comments, identified by “docket number” on the subject line, by any of the following methods:

1. **Electronic Mail:** zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.
2. **Facsimile:** 202-693-9441.

3. Regular Mail: MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, Attention: Roslyn B. Fontaine, Acting Director, Office of Standards, Regulations, and Variances.

4. Hand-Delivery or Courier: MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939. Individuals who submit comments by hand-delivery are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

(1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

(2) That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2011-015-M.

Petitioner: Swenson Granite Company, LLC, 369 North State Street, Concord, New Hampshire 03301.

Mine: Swenson Granite gray Quarry, MSHA I.D. No. 27-00083, 369 North State Street, Concord, New Hampshire 03301, located in Merrimack County, New Hampshire.

Regulation Affected: 30 CFR 56.19090 (Dual signaling system).

Modification Request: The petitioner requests a variance from the existing standard at the Concord, New Hampshire, site for their Pellegrini stiffleg derrick used for hoisting personnel. The petitioner states that:

(1) The Swenson Granite Gray Quarry is an open dimensional granite quarry operating fixed stiffleg derricks to lift stone and equipment. Personnel hoisting will be done as has been for many years before with equipment that has since been replaced by a newer stiffleg derrick.

(2) The derrick reaches all areas of the quarry floor and walls and the operator has full view of the hook and load.

(3) The derrick operator relies on a constant view of the hook and load and the operation is stopped until conditions improve to 100 percent visibility.

(4) Hoisting personnel would require the personnel to be placed at many different locations on the quarry floor. The standard 30 CFR 56.19090 requires at least two effective approved methods of signaling as a means of communication between the hoist room and the shaft stations. The petitioner notes that it appears that nothing follows the man box or skip physically – the standard requires either a telephone or speaking tube at each station.

(5) The petitioner will provide the same level of safety in communication for the two methods through use of the company's VHF radios and primary method of communication, hand signals. The petitioner will forego personnel hoisting if the hoist operator/signalman cannot see the bottom of the quarry, the same as they halt lifting operations of the granite product if it can not be seen.

(6) The quarry employees direct all derrick moves and positioning exclusively by the use of hand signals, a method used for many years without incident. Hoist equipment or stone could not be safely moved if visibility was lost and as in many years past, would not lift personnel if the personnel or the bottom of the quarry could not be seen.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection allowed by the existing standard

by using the primary and proven means of communication, hand signals, and the back up, VHF radios while lifting personnel.

Docket Number: M-2011-016-M.

Petitioner: Swenson Granite Company, LLC, 369 North State Street, Concord, New Hampshire 03301.

Mine: Swenson Granite gray Quarry, MSHA I.D. No. 27-00083, 369 North State Street, Concord, New Hampshire 03301, located in Merrimack County, New Hampshire.

Regulation Affected: 30 CFR 56.19009 (position indicators).

Modification Request: The petitioner requests a variance for the existing standard at the Concord, New Hampshire, site for the Pellegrini stiffleg derrick used for hoisting personnel. The petitioner states that:

(1) The Swenson Granite Gray Quarry is an open dimensional granite quarry operating fixed stiffleg derricks to lift stone and equipment. Personnel hoisting will be done as have been for many years before with equipment that has since been replaced by a newer stiffleg derrick.

(2) The petitioner notes that this standard, requiring that an accurate and reliable indicator of the position of cage, skip, bucket or cars in the shaft be provided, also applies to underground mines where there may not be visual contact at all, and safety and position indicators rely on limit switches and proximity devices. The petitioner asserts that the derrick operator has a full view of the hook and load at all times.

(3) The quarry floor is not flat and personnel would need to be set down in many different locations. The quarry maintains high walls and inspects for loose material on a regular basis.

(4) The petitioner would rely 100 percent on the hand signal system to swing lower and stop movement of the man-box at the exclusive direction of the hand signal from the miner in the man-box.

(5) With no fixed location for stopping while lifting men, as changes in the quarry floor are always occurring, a fixed stopping with redundant switches and stops is not practical for the operation. With a fixed stopping location redundant switches and stops would allow for positive bottom limit protection.

(6) The petitioner's reliance on signaling by hand provides a minimum of two sets of eyes watching the movement and directing the man box.

(7) The petitioner states that all persons involved in signaling while hoisting personnel understand that a miner's health and safety are dependent on the use of clear hand signals as they convey their requests for moving and stopping.

The petitioner asserts that the system of hand signals to direct the derrick would at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Numbers: M-2012-001-C and M-2012-002-C.

Petitioner: Arch Coal, Inc., Wolf Run Mining Company, 99 Edmiston Way, Buckhannon, West Virginia 26201.

Mines: Imperial Mine, MSHA I.D. No. 46-09115, Route 9, Box 576, Grassy Run Road Buckhannon, West Virginia 26201, located in Upshur County, West Virginia; Sentinel Mine, MSHA I.D. No. 46-04168, Route 3, Box 146, Philippi, West Virginia 26416, located in Barbour County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit plugging and replugging of gas and oil wells, and mining through or intersecting certain oil and gas wells within the projected workings of the Imperial Mine and Sentinel Mine after plugging or replugging.

The petitioner proposes to use the following procedures for cleaning out and preparing vertical oil and gas wells prior to plugging or replugging:

(1) Completely clean out the well from the surface to at least 200 feet below the base of the lowest mineable coal seam, unless MSHA requires cleaning to a greater depth. All material will be removed from the entire diameter of the well, wall to wall.

(2) Prepare down-hole logs for each well that will consist of a caliper survey and log(s) suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for a bridge plug. In addition, a journal will be maintained describing the depth and nature of each material encountered, bit size and type used to drill each portion of the hole, length and type of each material used to plug the well, length of casing(s) removed, perforated, ripped or left in place, any sections where casing was cut or milled, and other pertinent information concerning cleaning and sealing the well. Invoices, work orders, and other records relating to all

work on the well will be maintained as part of the journal and provided to MSHA upon request.

(3) When cleaning out the well, the petitioner will make a diligent effort to remove all of the casing in the well. If the casing cannot be removed, appropriate steps will be taken to ensure that the annulus between the casings and the casings and the well walls are filled with expanding cement (minimum of 0.5 percent expansion upon setting) and contain no voids. If the casing cannot be removed, it will be cut or milled at all mineable coal seam levels and any remaining casing will be perforated or ripped. Perforations or rips will be at least every 50 feet from 200 feet below the base of the lowest mineable coal seam up to 100 feet above the uppermost mineable coal seam. When multiple casing and tubing strings are present in the coal horizon(s), any casing that remains will be ripped or perforated and filled with expanding cement. An acceptable casing bond log for each casing and tubing string, if used, is in lieu of ripping or perforating multiple strings.

(4) If the completely cleaned-out well emits excessive amounts of gas, a mechanical bridge plug will be placed in the well. The bridge plug will be placed in a competent stratum at least 200 feet below the base of the lowest mineable coal seam, but above the top of the uppermost hydrocarbon-producing stratum, unless the MSHA requires a greater distance. If a mechanical bridge cannot be set, an appropriate size packer will be used.

(5) If the uppermost hydrocarbon-producing stratum is within 300 feet of the base of the lowest mineable coal seam, mechanical bridge plugs will be properly placed

to isolate the hydrocarbon-producing stratum from the expanding cement plug. A minimum of 200 feet of expanding cement will be placed below the lowest mineable coal seam, unless MSHA requires a greater distance.

The petitioner proposes to use the following procedures for plugging and replugging vertical oil or gas wells to the surface:

(1) After completely cleaning out the well, expanding cement slurry will be pumped down the well to form a plug that runs from at least 200 feet below the base of the lowest mineable coal seam to the surface, or lower if required by MSHA. The expanding cement will be placed in the well under a pressure of at least 200 pounds per square inch (psi). Portland cement or lightweight cement mixture will be used to fill the area from 100 feet above the top of the uppermost mineable coal seam to the surface, or higher if required by MSHA.

(2) Steel turnings or other small magnetic particles will be embedded in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, a 4½-inch or larger casing, set in cement, will extend at least 36 inches above the ground level with the API well number engraved or welded on the casing. When the hole cannot be marked with a physical monument (i.e., prime farmland), high-resolution GPS coordinates (half-meter resolution) will be required.

The petitioner proposes to use the following procedures for plugging or replugging oil and gas wells for use as degasification boreholes:

(1) After completely cleaning out the well, a cement plug will be set in the well by pumping expanding cement slurry down the tubing to provide at least 200 feet of

expanding cement below the lowest mineable coal seam unless MSHA requires a greater depth. The expanding cement will be placed in the well under a pressure of at least 200 psi. The top of the expanding cement will extend at least 30 feet above the top of the coal seam being mined unless MSHA requires a greater distance.

(2) A suitable casing will be securely grouted into the bedrock of the upper portion of the degasification well to protect it. The remainder of this well may be cased or uncased.

(3) The top of the degasification casing will be fitted with a wellhead, equipped as required by MSHA in the approved ventilation plan. Such equipment may include check valves, shut-in valves, sampling ports, flame arrestor equipment, and security fencing.

(4) Operation of the degasification well will be addressed in the approved ventilation plan. This may include periodic tests of methane levels and limits on the minimum methane concentration that may be extracted.

(5) After the area of the coal mine degassed by a well is sealed or the coal mine is abandoned, the degassed holes will be sealed as follows:

(i) A tube will be inserted to the bottom of the drill hole or, if not possible, to no greater than 100 feet above the coal seam. Any blockage will be removed to ensure that the tube can be inserted.

(ii) A cement plug will be set in the well by pumping Portland cement or a lightweight cement mixture down the tubing until the well is filled to the surface.

(iii) Steel turnings or other small magnetic particles will be embedded in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, a 4½-inch or larger casing set in cement will extend at least 36 inches above the ground level with the API well number engraved or welded on the casing.

The petitioner proposes to use the following procedures for preparing and plugging or replugging vertical oil and gas wells. This will apply to all wells that cannot be completely cleaned out due to damage to the well caused by subsidence, caving, or other factors:

(1) A hole will be drilled adjacent and parallel to the well to a depth of at least 200 feet below the lowest mineable coal seam, unless MSHA requires a greater depth.

(2) A geophysical sensing device will be used to locate any casing that may remain in the well.

(3) If the well contains casing(s), the well will be drilled into from the parallel hole. From 10 feet below the coal seam to 10 feet above the coal seam, all casings will be perforated or ripped at intervals of at least 5 feet. Beyond this distance, at least every 50 feet from at least 200 feet below the base of the lowest mineable coal seam up to 100 feet above the seam being mined will be ripped or perforated, unless MSHA requires a greater distance. The annulus between the casings and the casings and the well wall will be filled with expanding cement (minimum 0.5 percent expansion upon setting) and contain no voids. If it can be demonstrated to MSHA, using a casing bond log, that all annuli in the well are already adequately sealed with cement, then the petitioner will not perforate or rip the casing for the particular well or fill these areas with cement. When

multiple casing and tubing strings are present in the coal horizon(s), any casing that remains will be ripped or perforated and filled with expanding cement. An acceptable casing bond log for each casing and tubing string will be needed if used in lieu of ripping or perforating multiple strings.

(4) Where the petitioner determines and MSHA agrees that there is insufficient casing in the well to allow the use of the method outlined in this petition, a horizontal hydraulic fracturing technique will be used to intercept the original well. From at least 200 feet below the base of the lowest mineable coal seam to a point at least 50 feet above the seam being mined, at least six places will be fractured at intervals to be agreed upon by the petitioner and MSHA after considering the geological strata and the pressure within the well. Expanding cement will then be pumped into the fractured well in sufficient quantities and in a manner that fills all intercepted voids.

(5) Down-hole logs for each well will be prepared. The logs will consist of a caliper survey and logs(s) suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for a bridge plug. In addition, a journal will be maintained describing the depth of each material encountered, the nature of each material encountered, bit size and type used to plug the well, length of casing(s) removed, perforated, ripped, or left in place, any sections where casing was cut or milled, and other pertinent information concerning cleaning and sealing the well. Invoices, work-orders, and other records relating to all work on the well will be maintained as part of the journal and provided to MSHA upon request.

(6) After the well has been plugged, open portions of both holes will be plugged from the bottom to the surface with Portland cement or a lightweight cement mixture. Steel turnings or other small magnetic particles will be embedded in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, a 4½-inch or larger casing set in cement will extend at least 36 inches above the ground level.

The petitioner proposes to use the following procedures after approval has been granted by MSHA to mine within the safety barrier (50 feet from any well), or mine through a plugged or replugged well:

(1) The petitioner will mine through a well on a shift approved by MSHA, and notify MSHA in sufficient time prior to mining through a well to provide an opportunity to have a representative present.

(2) When continuous mining methods are being used, drilage sights will be installed not more than 50 feet from the well at the last open crosscut near the place to be mined to ensure intersection of the well. When longwall mining methods are being used, drilage sights will be installed on 10-foot centers for a distance of 50 feet in advance of the well. The drilage sights will be installed in the headgate and tailgate.

(3) Fire-fighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face area of the mine-through (when either the conventional or continuous mining method is used) will be available and operable during all well mine-throughs. The fire hose will be located in the last open crosscut of the entry

or room. The water line will be maintained to the belt-conveyor tailpiece along with sufficient amount of fire hose to reach the farthest point of penetration of the section.

(4) Sufficient roof support supplies and ventilation materials will be available and located at the last open crosscut. In addition, emergency plugs and suitable sealing materials will be available in the immediate area of the well intersection.

(5) The ventilation plan will specify minimum ventilation air quantities to be maintained in the working face during the period from when mining is within 50 feet of the well location until the post-cut-through inspection or mining progresses at least 50 feet past the well location.

(6) All equipment will be serviced and checked for permissibility on the shift prior to mining through the well.

(7) Methane monitor(s) will be calibrated on the continuous mining machine or cutting machine and loading machine on the shift prior to mining through the well.

(8) When mining is in progress, the petitioner will test for methane with a hand-held methane detector at least every 10 minutes from the time mining with the continuous mining machine is within 30 feet of the well until the well is intersected and immediately prior to mine-through. During the actual cutting process, no individual will be allowed on the return side until the mine-through is complete and the area has been examined and declared safe.

(9) When continuous or conventional mining methods are being used, the work area will be free from accumulations of coal dust and coal spillages, and rock dust will be

placed on the roof, rib, and floor to within 20 feet of the face when mining through the well.

(10) When the well is intersected, the petitioner will deenergize all equipment, thoroughly examine the equipment, and determine that the area is safe before mining is resumed.

(11) After a well has been intersected and the work area determined safe, mining will continue inby the well at a sufficient distance to permit adequate ventilation around the area of the well.

(12) If the casing is cut or milled at the coal seam level, the use of torches will not be necessary. However, in rare instances, torches may be used for inadequately or inaccurately cut or milled casings. No open flame will be permitted in the area until adequate ventilation has been established around the wellbore and methane levels of less than 1.0 percent are present in all areas exposed to flames and sparks from the torch. The petitioner will apply thick layer of rock dust to the roof, face, floor, ribs, and any exposed coal within 20 feet of the casing prior to any use of torches.

(13) Non-sparking (brass) tools will be located on the working section and will be used to expose and examine cased wells.

(14) No person will be permitted in the area of the mine-through operation except those actually engaged in the operation, including company personnel, representative of the miners, personnel from MSHA, and personnel from the appropriate State agency.

(15) All personnel in the mine will be alerted to the planned intersection of the well prior to going underground if the planned intersection is to occur during their shift. This alert will be repeated for all shifts until the well has been mined through.

(16) The mine-through operation will be under the direct supervision of a certified individual. Instructions concerning the mine-through operation will be issued only by the certified individual in charge. The petitioner states that:

(1) Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will include initial and refresher training regarding compliance with the terms and conditions in the petition. All miners involved in the mine-through of a well will be trained regarding the requirements of this petition prior to mining within 150 feet of the next well to be mined through.

(2) The person responsible for well intersection emergencies will review the well intersection procedures prior to any planned intersection.

(3) Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for the approved mine emergency and firefighting plan. These plans will include the hazards and evacuation procedures to be used for well intersections. Within 30 days of submittal of the revised evacuation plan, all underground miners will be trained on the revised plan. Persons may review a complete description of the petitioner's proposed alternative method and procedures at the MSHA address listed in this petition.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners under the existing standard.

Dated: March 5, 2012

Patricia W. Silvey
Certifying Officer

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